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<div>7590 05/14/2007</div> <div>Mark A. Watson Lyon & Harr Suite 800 300 Esplanade Drive Oxnard, CA 93030</div>			<div>EXAMINER</div> <div>YUAN, KATHLEEN S</div>	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,002

Applicant(s)

HERLEY, CORMAC

Examiner

Kathleen S. Yuan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

The response received on 2/27/2007 has been placed in the file and was considered by the examiner. An action on the merit follows.

Response to Amendment

1. The amendments filed on 27 February 2007 have been fully considered.

Response to these amendments is provided below.

Summary of Arguments/Amendments and Examiner's Response:

2. *"In particular, with respect to the issue of occlusions, the Office Action suggests that the Silber reference discloses "identifying areas of potential occlusions in each of the aligned images..." However, Applicant believes that the Office Action has misinterpreted the capabilities and features of the Silber reference with respect to these alleged occlusion identification capabilities. Further, Applicant would like to point out that neither the term "occlusion," nor any analogous term, is mentioned in the Silber reference. In addition, as is well known to those skilled in the art, an occlusion in an image occurs when an object in one image frame of a particular scene covers or occludes all or part of another object in another image frame of that particular scene. As discussed in further detail below, Silber is incapable of making such determinations."*

3. The exact language in the claim is not required in order to make a rejection, as long as the interpretation of that language is rejected. Occlusion is not used in Silber, however, the idea/interpretation/definition is in the patent. Also, the applicant points out

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that occlusion is when an image occurs when an object covers or occludes a part of another object. This is one interpretation of the word occlusion. One of the definitions of "occlusion" is "the process of occluding," according to dictionary.com, where "occlude" means "to obstruct", or "to prevent the passage of." Any region that is masked or not used in further processing is an occluded region since the region is obstructed from further processing. The region that is not masked/ is used in further processing can also be interpreted as occluded, because it is occluded by the mask. If the applicant intends to further define the region of occlusion to mean an area in which an object covers another object, the applicant is invited to do so.

4. *"Further, it should be clear that as described by Silber in the Abstract, in independent claims 1,20, 21 and 22, and throughout the specification with respect to Figures 1-13, Silber is directed towards compositing images of single objects or 'workpieces' in the case where each of the multiple images of the single objects is captured at a different depth of focus. In fact, Silber makes use of different depths of focus, in every disclosed and claimed embodiment, in order to capture 3D details of the single workpiece such that each feature of the single workpiece is captured at various levels of focus. The edges of each image are then examined to select those edges that are in best focus, with the best focused edges then being used to construct a composite image of the single workpiece.*

The Office Action attempts to partially address this issue by suggesting that in fig. 5, step 730, and in paragraph [0089], Silber teaches 'determining whether each area of potential occlusion in the seed image is an actual area of occlusion by examining each

area of potential occlusion in the seed image to determine whether a level of discontinuity along an outer edge of each area of discontinuity exceeds a predetermined threshold.' The Office Action states that this feature of the Applicant's claimed invention is taught by Silber 'since the amount of focus of the line, which is equivalent to discontinuous because it is not a solid, clear line, is compared to a threshold...'

Clearly, both the Applicant and Silber examine detected edges in images. However, where Silber examines edges to determine whether a particular edge represents a best level focus for that edge, Applicant describes and claims a technique whereby a determination of an area of occlusion is accomplished by an evaluation of detected edges."

5. By determining whether a particular edge represents a best level focus for that edge, the edge is "highlighted" so to speak as a good area to represent the composite image. Therefore, a determination of a region of occlusion is accomplished by the evaluation of detected edges since the detected edges are evaluated, and a region is determined as occluded since certain areas are not further processed, the areas that are not of the valid edge, and thus occluded from further processing.

*Noted, the applicant argues "areas" instead of "regions," which is what the claims states, but either way, the region can be interpreted as an area as well.

6. *"...Silber fails completely to provide a technique for deciding whether a particular edge represents the boundary of an object that is occluding some portion of a scene."*

"In fact, the invention described by Silber is specifically directed towards constructing a composite image from multiple images of a single object or workpiece

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based solely on which edges are in best focus. Consequently, Applicant respectfully suggests that any composite image created by the Silber invention from a set of images that include one or more occluding regions or objects would tend to randomly include portions of both occluding objects and non-occluded regions of images as a function of edge focus levels rather than whether or not an area was actually occluded. In fact, Applicant believes that the edges of occluding objects would be favored by the Silber system since the edges of any occluding object in a particular image frame would clearly be in better focus than those edges would be in a frame in which the occluding object did not exist."

7. This argument works when interpreting "occlusion" in the way the applicant describes above. However, the examiner has explained that "occlusion" as a term is much broader, and therefore, Silber does teach whether a particular edge represents occluded regions. The examiner agrees that Silber does not completely provide a technique for deciding whether a particular edge represents the boundary of an object that is occluding some portion of the scene. However, the claim does not claim the boundary, nor claim an object.

8. *"First, with respect the Parulski reference, the Office Action suggests that Parulski teaches 'comparing the set of images to identify areas of difference between the images for all images, said areas of difference representing regions of potential occlusion in each image.'*

However, in contrast to the position advanced by the Office Action, Applicant respectfully suggests that what Parulski actually discloses is a technique wherein a first

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image is specifically identified as a 'subject plus background' and a second image is specifically identified as 'background only' are compared to extract the 'subject' from the 'background' (see Figure 1 and associated discussion). As such, Parulski is inherently limited to processing two images, which are captured from a 'camera firmly mounted on a tripod' (see step 10 of Figure 1). Further, the system described by Parulski must also be specifically told which of the two images includes the 'subject.' Otherwise, there is no way to ensure that the 'foreground mask image' described with respect to steps 22 and 24 of Figure 1 will actually include the 'subject' that is to be transferred to the composite image illustrated by steps 26 and 32 of Figure 1 of the Parulski reference.

Consequently, Parulski is capable simply of subtracting a second image from a first image, and then pasting the result of that subtraction onto a third image to create a composite image. In addition, Parulski suggests the optional use of noise reduction techniques to remove potential artifacts resulting from camera noise or other noise sources along with the use of manual user applied techniques to 'clean up.... holes' left in the composite image and techniques to 'clean up' edges resulting from the above-described pasting operation."

9. The examiner agrees that Parulski is drawn towards processing two images. It is unclear as to why this is a problem. The applicant simply claims "a set of images," which can certainly be a set of two images. If the applicant wishes to claim that there are more than two images, the applicant is invited to do so. Furthermore, the applicant states many other features of Parulski's invention. Examiner would like to bring

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attention to the fact that Parulski was brought in as a reference to teach “comparing the set of images to identify areas of difference between the images for all images, said areas of difference representing regions of potential occlusion in each image.” Parulski clearly does, since as the applicant states that Parulski is, “subtracting a second image from a first image,” which is a comparison to the set of images, the second and first image, to identify areas of difference by subtracting the images, representing regions of potential occlusion, since certain regions of the images are occluded/masked. Also, the applicant argues that the system must be told which of the images include the subject. Even when this is true, it is unclear as to what the applicant is arguing. The claim does not claim that the system does not have to be told which of the images include the subject, and since the limitations in the claim that were asserted as disclosed by Parulski were addressed and shown, this is not an issue. Furthermore, the examiner did not intend to suggest the noise reduction techniques as part of the rejection, so it is unclear as to what the applicant is arguing regarding the noise reduction. However, it is clear that Parulski does teach the limitations of the claim that was stated in the previous rejection, so the rejection is maintained.

10. *“Next, as discussed above in Section 3.1 with respect to the rejection of claim 12, the Silber reference is incapable of determining, for any image, whether regions of potential occlusion represent actual regions of occlusion. In particular, as discussed above, the Silber reference operates by identifying edges in a set of images that represent the best levels of focus for particular edges. Silber does not have any capability to determine whether one region is occluding another. Note that the*

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discussion provided in Section 3.1 is incorporated by reference for purposes of brevity rather than repeat that entire discussion here..."

11. As discussed above, Silber does determine potential occlusion regions when interpreting occlusion as a broader term than the applicant intends.

12. *"Consequently, the proposed Silber-Parulski combination appears to be substantially more limited than the Silber reference alone. Specifically, Applicant believes that the proposed Silber-Parulski combination will operate as follows. First, the proposed Silber-Parulski combination will receive two images, and then the second image will be subtracted from the first image to provide a single image of a 'subject.' This first step represents the Parulski contribution to the proposed Silber-Parulski combination. Next, the proposed Silber-Parulski combination will detect the edges in the single image of the subject, and since there is only one image, it will be forced to accept all edges of the 'subject' image as having a valid focus. Since there is only one remainder image following the initial subtraction step, that image, and its supposedly valid edges will comprise the entire 'composite image.'*

In other words, Applicant believes that the proposed Silber-Parulski combination will simply output the difference between a first image and a second image without making any determination as to whether any region of one image is occluding any region of any other images."

13. The interpretation above is not what the rejection has stated. To aid the applicant in understanding the function of the references together, the Examiner has set up a statement similar to the one above. First, the proposed Silber-Parulski combination

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will receive two images, and then the second image will be subtracted from the first image to provide a single image of a 'subject,' representing a region of occlusion. This first step represents the Parulski contribution to the proposed Silber-Parulski combination. Next, the proposed Silber-Parulski combination will determine whether the regions of potential occlusion represent actual regions of occlusion by examining edges, as the prior art and prior rejection have stated, as having a valid focus. If it does then a mosaic image is made with the two images by combining images. As to the argument that a region is occluding other regions, this argument is addressed above when discussing the definition of "occlusion."

14. *"First, with respect the Parulski reference, the Office Action suggests that Parulski teaches 'comparing each of the aligned images to identify areas of potential occlusion in each of the aligned images.'... ..Next, as discussed above in Section 3.1 with respect to the rejection of claim 12, the Silber reference is incapable of determining, for any image, whether regions of potential occlusion represent actual regions of occlusion. In particular, as discussed above, the Silber reference operates by identifying edges in a set of images that represent the best levels of focus for particular edges. Silber does not have any capability to determine whether one region is occluding another. Note that the discussion provided in Section 3.1 is incorporated by reference for purposes of brevity rather than repeat that entire discussion here."*

15. This argument is very similar, if not identical to the arguments above, and is addressed above.

16. Therefore, the prior rejections have been maintained.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12, 14 and 15 are rejected under 35 U.S.C. 102(e) as being unpatentable by U.S. Patent Application Publication No. 20020181762 (Silber).

3. Regarding claim 12, Silber discloses a system for removing occlusions from a composite image formed from a set of images of a scene, comprising (fig. 1): acquiring at least two images of a scene from approximately the same viewpoint (fig. 3, s300); aligning each of the images to a base image selected from the set of images (fig. 3, step 400); identifying areas of potential occlusion in each of the aligned images (fig. 3, step 600); selecting a seed image from the set of images (fig. 5, step 705); determining whether each area of potential occlusion in the seed image is an actual area of occlusion by examining each area of potential occlusion in the seed image to determine whether a level of discontinuity along an outer edge of each area of discontinuity exceeds a predetermined threshold (fig. 5, step 730 and pg 9, pp. 0089), since the amount of focus of the line, which is equivalent to discontinuous because it is not a solid, clear line, is compared to a threshold; replacing areas of actual occlusion in the

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seed image with corresponding non-occluded areas from one of the other images in the set to form a composite image from the seed image (fig. 5, step s770 and as seen in fig. 13).

4. Regarding claim 14, Silber discloses aligning each of the images to the base images comprises applying a geometric transform to each image relative to the base image for registering each of the images to the base image by pattern matching and adjusting the source images based on the analysis to place the images into spatial congruence, thus, transforming the images geometrically (pg. 5, pp. 0059).

5. Regarding claim 15, Silber discloses individually cropping each image so that all images cover approximately the same view of the scene (fig. 3, s500).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 7-9, 11, 17-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of U.S. Patent No. 6366316 (Parulski et al).

Regarding claim 1, Silber discloses a computer-readable medium having computer executable instructions for automatically constructing an image mosaic from a set of images of a scene (fig. 1, 120), said computer executable instructions comprising: inputting a set of images of a scene (fig. 3, s300); registering the set of images by

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aligning the images (fig. 3, s400); determining, for each image, whether regions of potential occlusion in each image represent actual regions of occlusion, or whether the regions of potential occlusion in each image represent regions of non-occlusion, by determining a level of discontinuity along an exterior border of each region of potential occlusion in each image (fig. 5, step 730, as explained above); and creating a mosaic image by replacing at least one actual region of occlusion in one image from the set of images with corresponding regions of non-occlusion from at least one other image from the set of images of the scene (fig. 13).

Silber does not disclose expressly comparing the set of images to identify areas of difference between the images for all images, said areas of difference representing regions of potential occlusion in each image.

Parulski et al discloses comparing a set of images to identify areas of difference between the images, said areas of difference representing regions of potential occlusion (fig. 1, step 22).

Silber and Parulski are combinable because they are from the same field of endeavor, i.e. compositing images and using images with different areas of depth.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to initially find potential areas by comparing the images for differences.

The suggestion/motivation for doing so would have been to speed processing by initially finding areas of an obvious different depth quickly and easily.

Therefore, it would have been obvious to combine system of Silber with the comparing images of Parulski et al to obtain the invention as specified in claim 1.

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8. Regarding claim 2, Silber discloses that registering the images for aligning the image (fig. 3, step 400) by pattern matching the image, which will match up the patterns between the images, thus translating, rotating and scaling the image accordingly (pg. 5, pp. 0059).

9. Regarding claim 3, Silber discloses cropping the images after registering the set of images so that all images cover approximately the same view of the scene (fig. 3, s500).

10. Regarding claim 7, Parulski et al discloses comparing the set of images to identify areas of difference between the images for all images further comprises comparing corresponding blocks of image pixels between each image to determine whether the corresponding blocks match, as can be seen in fig. 1, since the blocks of image pixels in item 12 are compared to the corresponding blocks of fig. 18 to see if they match in order to create the mask in 22.

11. Regarding claim 8, Parulski et al discloses comparing the set of images to identify areas of difference between the images for all images further comprises automatically constructing at least one image mask for identifying non-occluded regions and regions of potential occlusion in the set of images (fig. 1, items 22 and 24).

12. Regarding claim 9, Parulski et al discloses comparing the blocks to a predetermined matching threshold that is predetermined from a look up table (col. 3, lines 55-60).

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13. Regarding claim 11, Parulski et al discloses a user interface for excluding one or more actual regions of occlusion from being replaced with corresponding regions of non-occlusion by allowing the user to edit the mask (col. 3, lines 63-66).

14. Claim 17 is rejected for the same reasons as claims 7 and 9. Thus, the arguments analogous to that presented above for claims 7 and 9 are equally applicable to claim 17. Claim 17 distinguishes from claims 7 and 9 only in that they have different dependencies, both of which have been previously rejected. Therefore, prior art applies.

15. Regarding claim 18, Parulski et al discloses identifying areas of potential occlusion in each of the aligned images further comprises a pixel-by-pixel comparison of corresponding pixels between each image, by taking a direct difference between the pixels (fig. 1, step 24) to determine whether the corresponding pixels match within a predetermined threshold, the predetermined threshold being defined from a look up table (col. 3, lines 55-60).

16. Regarding claim 19, Silber discloses a map that works like a mask (fig. 12). Parulski et al further discloses this as a mask (fig. 1, step 24). Therefore, Parulski et al discloses identifying areas of potential occlusion in each of the aligned images further comprises automatically constructing an image mask for identifying all regions of potential occlusion in the set of images (fig. 1, step 24).

17. Regarding claim 21, Silber discloses a computer-implemented process for removing occlusions from a mosaic image created from a set of images of a scene (fig. 3-9), comprising: inputting a set of two or more images of a scene (fig. 3, s300); aligning each of the images to a base image selected from the set of images (fig. 3, s400);

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determining a level of discontinuity along an outer edge of each area of potential occlusion for each image, said level of discontinuity indicating an area of actual occlusion where the level of discontinuity exceeds a predetermined discontinuity threshold, and said level of discontinuity indicating an area of non-occlusion where the level of discontinuity is less than the predetermined discontinuity threshold (fig. 5, s730, and as explained above); creating an image mask, essentially, for each image by creating a composite image mask indicating in each image which areas are occluded and not occluded, said image masks indicating areas of occlusion and areas of non-occlusion for each image (fig. 12); and using the image mask for each image for creating a mosaic image by replacing areas of actual occlusion in one of the images with corresponding areas of non-occlusion from one of the other images (fig. 13). Parulski et al discloses comparing each of the aligned images to identify areas of potential occlusion in each of the aligned images (fig. 1, step 24), and also calls the occlusion map a mask (fig. 1, step 24).

18. Claims 4, 5, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of Parulski et al and further in view of U.S. Patent Application Publication No. 20030202715 (Kinjo)

Regarding claim 4, Silber (as modified by Parulski et al) discloses all of the claimed elements as set forth above and incorporated herein by reference.

Silber (as modified by Parulski et al) does not disclose expressly balancing the set of images.

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Kinjo discloses balancing input images before further processing (pg. 4, pp. 51).

Silber (as modified by Parulski et al) and Kinjo are combinable because they are from the same field of endeavor, i.e. image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to balance the image before any further processing.

The suggestion/motivation for doing so would have been to help obtain the best composite image by using the best representations possible early on.

Therefore, it would have been obvious to combine the medium of Silber (as modified by Parulski et al) with the balancing of Kinjo to obtain the invention as specified in claim 4.

19. Regarding claim 5, balancing the images comprises histogram averaging of the images, since the density histograms are found and averages are calculated and adjusted (pg. 4, pp. 51) based on the input image, and thus anything in the image including the targets.

20. Claims 26 and 27 are rejected for the same reasons as claims 4 and 5, respectively. Thus, the arguments analogous to that presented above for claims 4 and 6 are equally applicable to claims 26 and 27. Claims 26 and 27 distinguish from claims 4 and 5 only in that they have different dependencies, both of which have been previously rejected. Therefore, prior art applies.

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21. Claims 4, 6, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of Parulski et al and further in view of U.S. Patent No. 6222637 (Ito et al).

Regarding claim 4, Silber (as modified by Parulski et al) discloses all of the claimed elements as set forth above and incorporated herein by reference.

Silber (as modified by Parulski et al) does not disclose expressly balancing the set of images.

Ito et al discloses balancing input images by using a white balance circuit obtained from the camera before further processing (col. 14, lines 36-38).

Silber (as modified by Parulski et al) and Ito et al are combinable because they are from the same field of endeavor, i.e. image processing and compositing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to balance the image before any further processing.

The suggestion/motivation for doing so would have been to help obtain the best composite image by using the best representations possible early on.

Therefore, it would have been obvious to combine the medium of Silber (as modified by Parulski et al) with the balancing of Ito et al to obtain the invention as specified in claim 4.

22. Regarding claim 6, the balancing is white balancing (col. 14, lines 36-38) based on the input image, and thus anything in the image including the targets.

23. Claims 26 and 28 are rejected for the same reasons as claims 4 and 6, respectively. Thus, the arguments analogous to that presented above for claims 4 and

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6 are equally applicable to claims 26 and 28. Claims 26 and 28 distinguish from claims 4 and 6 only in that they have different dependencies, both of which have been previously rejected. Therefore, prior art applies.

24. Claims 10, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of Parulski et al and further in view of U.S. Patent No. 5022085 (Cok).

Regarding claim 10, Silber (as modified by Parulski et al) discloses all of the claimed elements as set forth above and incorporated herein by reference.

Silber (as modified by Parulski et al) does not disclose expressly replacing at least one actual region of occlusion in one image from the set of images with corresponding regions of non-occlusion further comprises at least one of blending, feathering, and pixel averaging, along the edge of the corresponding regions of non-occlusion used to replace any actual regions of occlusion.

Cok discloses blending along the edge of regions that are to be combined (abstract).

Silber (as modified by Parulski et al) and Cok are combinable because they are from the same field of endeavor, i.e. image combining.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to blend the edges.

The suggestion/motivation for doing so would have been to eliminate any overlap-edge artifacts.

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Therefore, it would have been obvious to combine the medium of Silber (as modified by Parulski et al) with the blending of Cok to obtain the invention as specified in claim 10.

25. Claim 23 is rejected for the same reasons as claim 10. Thus, the arguments analogous to that presented above for claim 10 are equally applicable to claim 23. Claim 23 distinguishes from claim 10 only in that they have different dependencies, both of which have been previously rejected. Therefore, prior art applies.

26. Regarding claim 24, Cok discloses feathering pixels along an outer edge of the corresponding areas of non-occlusion with pixels surrounding the areas of actual occlusion being replaced (col. 2, lines 30-35).

27. Claims 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of Parulski et al, as applied to claims 12 and 21 above, and further in view of U.S. Patent No 6556243 (Dotsubo et al).

Regarding claim 13, Silber (as modified by Parulski et al) discloses all of the claimed elements as set forth above and incorporated herein by reference.

Silber (as modified by Parulski et al) does not disclose expressly that the system is embedded in a digital camera.

Dotsubo et al discloses a system that is embedded in a digital camera that includes compositing images (col. 1, lines 32-45).

Silber (as modified by Parulski et al) and Dotsubo et al are combinable because they are from the same field of endeavor, i.e. image processing and compositing.

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At the time of the invention, it would have been obvious to a person of ordinary skill in the art to embed the system in a digital camera.

The suggestion/motivation for doing so would have been to provide a user-friendly system that would allow the system to be portable.

Therefore, it would have been obvious to combine the system of Silber (as modified by Parulski et al) with the digital camera of Dotsubo to obtain the invention as specified in claim 13.

28. Regarding claim 22, Dotsubo et al discloses that the computer is integral to a digital camera since it is embedded in the camera, and wherein the composite image is formed automatically from images of a scene captured using the digital camera (col. 1, lines 32-45).

29. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of Ito et al. Claim 16 is rejected for the same reasons as claims 4 and 6. Thus, the arguments analogous to that presented above for claims 4 and 6 are equally applicable to claim 16. Claim 16 distinguishes from claims 4 and 6 only in that it is a broader version of claims 4 and 6 in that the balancing could also be histogram averaging, and that they have different dependencies, both of which have been previously rejected by the same prior art, claim 16 omitting one of the references of claims 4 and 6. Since the dependencies share the same prior art for the elements of the purpose of this rejection, prior art applies.

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30. Claim 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of Cok. Claim 20 is rejected for the same reasons as claim 10. Thus, the arguments analogous to that presented above for claim 10 are equally applicable to claim 20. Claim 20 distinguishes from claim 10 only in they have different dependencies, which have been previously rejected by the same prior art, claim 20 omitting one of the references of claim 10. Since the dependencies share the same prior art for the elements of the purpose of this rejection, prior art applies.

31. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silber in view of Parulski et al and Cok, as applied to claim 23 above and further in view of U.S. Patent Application Publication No. 20030138137 (Bojer et al).

Silber (as modified by Parulski et al and Cok) discloses all of the claimed elements as set forth above and incorporated herein by reference. Cok further discloses replacing areas of actual occlusion in one of the images with corresponding areas of non-occlusion from one of the other images further comprises, as disclosed above.

Silber (as modified by Parulski et al) does not disclose expressly that blending is averaging pixels along an outer edge of the corresponding areas of non-occlusion with pixels surrounding the areas of actual occlusion being replaced.

Bojer et al discloses blending two parts by taking the average of pixels of each part (pg. 1, pp. 0004).

Silber (as modified by Parulski et al) and Bojer et al are combinable because they are from the same filed of endeavor, i.e. composite imaging.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to blend the images by averaging the pixels.

The suggestion/motivation for doing so would have been to provide a more natural composite image by using values that are already in the image.

Therefore, it would have been obvious to combine the process of Silber (as modified by Parulski et al) with the averaging of Bojer et al to obtain the invention as specified in claim 25.

Conclusion

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen S. Yuan whose telephone number is (571)272-2902. The examiner can normally be reached on Monday to Thursdays, 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on (571)272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KY
5/1/2007



JOSEPH MANCUSO
SUPERVISORY PATENT EXAMINER